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BILLINGS DIV.

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FILED this 7th day of

PATRICK E. DUFFY, CLERK

Karen J. Yarlott

ATTORNEY FOR PLAINTIFF BY

DEPUTY CLERK

Clerk of District Court, Big Horn County

ORIGINAL

By *[Signature]*

MONTANA TWENTY SECOND JUDICIAL COUNTY, BIG HORN COUNTY

RANDY BONOGOFISKY,
Plaintiff,

vs.

BIG HORN COUNTY SHERIFF'S
DEPARTMENT, and JOHN DOES 1-49
Defendants.

Judge: Blair Jones

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

CV-08-32-BLG-RFC

Plaintiff RANDY BONOGOFISKY, for this Complaint, respectfully alleges as follows:

PARTIES:

1. During all times relevant, the Plaintiff resided in the town of Fort Smith in Big Horn County, Montana.
2. During all times relevant, the Defendant, Big Horn County Sheriff's Office, is a department of Big Horn County, Montana. At all times relevant, the individual Defendants were acting under color of law.

JURISDICTION AND VENUE:

3. All actions complained of herein occurred in Big Horn County, Montana.

GENERAL ALLEGATIONS:

4. On the 25th day of July, 2005, the Plaintiff telephoned 911 Emergency at the Big Horn County Sheriff's Office to report that the Plaintiff's estranged wife, Sheila Marie Bonogofsky, had shot at him with a rifle. Ms. Bonogofsky was charged with Attempted Deliberate Homicide over the incident.

5. That as Law Enforcement arrived at the scene of the incident between the Plaintiff and his estranged wife they ordered the Plaintiff out of his house with his hands up and onto the ground face down.

6. The Plaintiff came out of his house wearing only a tee shirt and shorts, and advised Law Enforcement that he was only two weeks out of back surgery and that he was the victim and had called them because he needed help and was in fear of his life.

7. That the Plaintiff complied with the demand that he lay on the ground, and that as he was laying on the ground, several Law Enforcement Officers piled onto the Plaintiff's body for what they termed "restraint".

8. That after the Officers got off the Plaintiff, a Big Horn County Sheriff's Office Deputy put his knee onto the Plaintiff's back and handcuffed him behind his back.

9. That Big Horn County Sheriff's personnel then lifted the Plaintiff up off the ground by the handcuffs.

10. That Big Horn County Sheriff's Deputies then placed the Plaintiff in the backseat of a Patrol car, still handcuffed behind his back and did not release him for over an hour.

11. That as a result of the excessive force used on the Plaintiff by the Big Horn County Sheriff's Deputies the Plaintiff sustained severe injury to his back and subsequently had to have surgery to his lower back.

12. That the Plaintiff has suffered mental, emotional and physical damage as a result of the excessive force used by the Defendants. Defendants actions has also caused him to lose substantial income because of the continuing medical problems caused by the use of excessive

1 force so soon after a surgery.

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3 **CAUSE OF ACTION I:**

4 **Excessive Force**

5 Plaintiff realleges and incorporates by reference Paragraphs 1 through 12 as though fully
6 set herein.

7 13. Defendants acted with reckless disregard for Mr. Bonogofsky's safety.

8 14. As a result of the Defendant's actions Mr. Bonogofsky was severely injured and
9 suffered damages.

10 15. The individual Defendants were acting at all times relevant herein under color of
11 law.

12 16. The individual Defendants were acting in their official and individual capacities.

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14 **CAUSE OF ACTION II:**

15 **42 U.S.C. § 1983**

16 Plaintiff realleges and incorporates by reference Paragraphs 1 through 16 as though fully
17 set herein.

18 17. The individual Defendants were acting at all times relevant herein under color of
19 law.

20 18. The individual Defendants were acting in their official and individual capacities.

21 19. The individual Defendants were acting pursuant to custom or policy of the
22 Defendant Big Horn County Sheriff's Office.

23 20. As a result of the Defendant's wrongful conduct, Plaintiff has suffered lost wages,
24 physical, mental and emotional damages, and other general damages.

25 21. Plaintiff is entitled to an award of attorney's fees and costs pursuant to 42 U.S.C. §
26 1983 in protecting his rights.

1 WHEREFORE, Plaintiff prays for relief as more fully set forth in the prayer for relief.

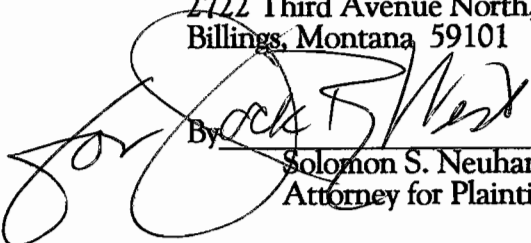
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3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays for relief as follows:

- 5 1. For exemplary damages for Defendants' malicious conduct and bodily damage to the
6 Plaintiff;
- 7 2. For special physical, mental, emotional and general damages;
- 8 3. For lost wages;
- 9 4. Demand for Jury Trial;
- 10 5. For attorney fees and costs;
- 11 6. For leave to amend his complaint to add such additional defendants and allegations
12 as discovery justifies; and
- 13 7. For such other further relief as to the Court seems just.

14 DATED this 30th day of July, 2007.

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19 By  _____
20 Solomon S. Neuhardt,
21 Attorney for Plaintiff
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